

Q # 1966

C E R T I F I C A T E

I.P.S. No. 1576 F/

Statement of Source and Authenticity

I, Takashi, Yamazaki, hereby certify that I am officially connected with the Japanese Government in the following capacity: Secretariat, House of Representatives, and that as such official I have custody of the document hereto attached consisting of 1 page, dated Feb. 17, 1943, and described as follows: KIMURA's explanation to Diet of War Prisoner Punishment Act (Reasons for Amendment of Act).

I further certify that the attached record and document is an official document of the Japanese Government, and that it is part of the official archives and files of the following named ministry or department (specifying also the file number or citation, if any, or any other official designation of the regular location of the document in the archives or files): House of Representatives.

Signed at Tokyo on this
2nd day of October, 1946.

/s/ Takashi Yamazaki
Signature of Official

SEAL

Witness: /s/ R. Ikawa

Secretariat, House of Representatives
Official Capacity

Statement of Official Procurement

I, Richard H. Larsh, hereby certify that I am associated with the General Headquarters of the Supreme Commander for the Allied Powers, and that the above certification was obtained by me from the above signed official of the Japanese Government in the conduct of my official business.

Signed at Tokyo on this
2nd day of October, 1946.

/s/ Richard H. Larsh
NAME

Witness: /s/ T/4 Takio Toguchi

Investigator, IPS
Official Capacity

EXTRACT FROM THE IMPERIAL DIET PROCEEDINGS
OF FEBRUARY 17, 1943
CONCERNING THE DRAFT OF REVISION OF A PART OF
MILITARY SERVICE LAW AND THREE OTHER MATTERS.

KIMURA, Hyotaro, Government Committee: -

I should like to explain the reason of the proposal of the draft of revised law concerning War Prisoners Punishment Act, being the Act No. 38 of 1905. When a prisoner committed a crime against the criminal law or other laws and ordinances in the Japanese homeland, in the occupied area of the Japanese forces or in the stationed area of the same, the laws and ordinances concerned may be applied to him respectively, so the War Prisoners Punishment Act may be said to be complete from the point of view of maintenance of peace and order in general or preservation of security of military forces; but if we observe this act from the standpoint of the special standing as prisoners and also special necessity of their control and supervision, it leaves much to be desired. During the Russo-Japanese War, some Russian prisoners showed disobedience by resisting the guards, or by escaping together in a large number, or behaving violently or beating the members of the POW camp, and the Government authorities regretted it from the standpoint of control and finally an urgent Imperial Ordinance No. 225 of 1904 was promulgated and in the following year, 1905, War Prisoners Punishment Act was enacted as the Law No. 38 of 1905. This is the law actually in force. This was, however, enacted under the old punishment system before the enactment of the penal law actually in force, and consequently the items of punishment, the name of punishment, the term of imprisonment, and other rules in general are inadequate. On the other hand, since the outbreak of the Greater East Asia War, the number of war prisoners seized by the Japanese has amounted to three hundred thousand and their nationalities and qualities are very different and complicated, and until today a large number of them frequently escaped and showed disobedience. And in the case of supervision of war prisoners, it is of urgent need of controlling so as to be able to intern a large number of war prisoners in safety and tranquility by a small number of members of the camp. Therefore, the Government expects to carry out the supervision and control of the present war prisoners most satisfactorily by adding necessary rules to the War Prisoners Punishment Act actually in force or by rearranging it. I am, herewith, going to explain the contents of the draft article by article.

Article I is the regulation which elucidates that the object of application of the present law is the prisoner of war, by which the explanation in each article was omitted that the subject of offense is the prisoner of war.

Article II is the regulation of punishment of riotous action of the prisoner of war. The mass assembling and riotous action of prisoners of war may be said most disobedient and must be avoided from the standpoint of supervision and control of the prisoner of war; therefore, it is quite necessary to punish the perpetrators with a reasonable penalty and also the provisional conspiracy in order to nip the evil in the bud.

Articles III and IV are the regulations to control severely the conduct of killing, wounding, violence and threats against the superintendent of prisoners of war, who takes charge of supervision, guards or convoys of prisoners of war. It is needless to say that it is necessary to warn all the prisoners by severely punishing those who will carry out such riotous action against the superintendent of prisoners of war, especially when they venture to resist by conspiring together. And as for the murder of the superintendent of prisoners of war, the provisional plot shall also be punished. Although regulations for violence are enacted in the law actually in force, in this draft it is projected to enlarge the scope of the penalty and to leave the room to take proper steps to deal either leniently or severely with the concrete examples.

Article V is the rearrangement of the regulations actually in force which aims to control those who oppose or disobey the order of the superintendent of the prisoners of war and its gist is the same as explained in Articles III and IV.

Article VI is a regulation to control the conduct of insult for the superintendent of the prisoners of war. Such conduct does not only impair the dignity of the sufferer, but also is the expression of a spirit of insubordination; therefore, we cannot neglect it from the standpoint of control as disobedient conduct. According to the former experience of the internment of prisoners of war, there were some who acted as explained just now, for whom the regulation of insult crime of the penal law is incomplete.

Article VII is a regulation of punishment of those who escape by conspiring together and is nothing other than the rearrangement of the regulation actually in force.

Article VIII is a regulation of punishment of unconsummated crimes of violence and threat of mass assembly, murder, wounding, violence, threat to the superintendent of prisoners of war and the attempted escape by conspiring together.

Article IX and Article X are the regulations for the punishment of the violation of word of honor and is nothing other than the rearrangement of the regulations actually in force. Among various kinds of oaths, the so-called release by oath is strictest in its character, so specially a regulation is enacted for it and heavy penalty is to be imposed; the oath not to escape is next to this. And further as for other oaths, regulations are to be rearranged to punish violation according to the degree of importance respectively.

Article XI is to punish the action of conspiring together. That is to say, to conspire together with the aim of disobedience is a violation of negative resistance and will be a hotbed of riotous and insubordinate action; therefore, its control cannot be neglected. This regulation may be quite essential for preventing riotous action as well as for the maintenance of discipline.

Article XIII is a regulation not to apply the penalty regulation of escape by conspiring together violated before to those prisoners who had escaped and reached their own troops or were seized as prisoners of war again after having left the area occupied by the Japanese forces and this is a re-arrangement of the regulation actually in force,

Furthermore, in Article VII of the law actually in force, a regulation is drawn up concerning the trial of the crime of prisoners of war; but in consequence of regulations drawn up with the same gist in both the army court-martial law and the navy court-martial law enacted after the enactment of the law actually in force, it became unnecessary and it has been omitted in this case.

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議事綜覽

第八十一編
第八卷

衆議院委員會議錄 特別下

衆議院

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No. 2.

第廿二回帝國議會 衆議院 兵役法中改正法律案外三件

委員會會議錄(筆記)第二回

次ニ明治三十八年法律第三十八號俘虜處罰ニ関スル件改正法律案、提出理由ニ付キマシテ御説明申上ゲマス。俘虜ガ帝國內帝國軍、占領地、又ハ其所在ニ於テ刑法、又、他、法令罪ヲ犯シタルトキハソレノ當該法令、適用アルモノデアリマスカラ、俘虜ニ關シ一般治安、維持、又、軍、安寧保持、上ヨリスル處罰規定、一應備ハツテ居ル譯デアリマスガ、俘虜タル、特殊身分、及ビ是ガ管理取締上、特別、注意ヨリ觀察シマスル上キハ、尚ホ十全デナイモノガアルデアリマス。即チ日露戰爭當時兩派、俘虜ニシテ、或ハ衛兵ニ反抗シ、或ハ多數共同ニ逃走シ、或ハ俘虜收容所員ニ對シ毆打暴行ヲ働ク等、不從順ナル行為ヲナスモノガアリマシテ、取締上遺憾ヲ感ズルニ至リ、遂ニ明治三十七年緊急勅令第二百二十五號、發布トシ、翌明治三十八年法律第三十八號トシテ、俘虜處罰ニ関スル法律ヲ制定セラルルニ至ツタデアリマス。是、即チ現行法デアリデアリマス。而シテ同法、現行刑法制定前、舊刑罰体系ノ下ニ制定セラレタルモノデアリマシテ、其、罰目、刑名、刑期等、規定、全般ニ於キマシテ適當ナラザルモノガアリマス。一方大東亞戰爭勃發以來、帝國、捕獲セル俘虜ハ三千万、多キニ達シ、其、國籍ニ於テ素質ニ於テ複雑多岐ナルモノガアリ、

既ニ多衆逃走等、頻發。其、他不従順ナル行為、發覺ヲ見ルニ至ツテ居ルノデアリマス。而モ信房、管理ニ成ルベク少數人員ヲ以テ多數ノ信房ヲ安全且ツ靜謐ニ收容出来得ル如ク取締ヲナスコト、緊要ナルヲ痛感致ス次第アリマス。茲ヲ以テ現行信房處罰ニ關スル法律ニ付キ所要、規定ヲ新設。又、整理シ、以テ現下ノ信房、管理取締ニ遺憾ナキヲ期セントスルモノデアリマス。本案ノ内容ヲ各本條ニ付キ即説明申上ケマスレバ次、通テデアリマス。

第一條ハ、本法適用、対象ノ信房ナルコトヲ明カニシ、各本條ニ於キマシテ其、犯罪主体ガ信房ナルコトヲ一カ括ケル、事ヲ省ク趣旨、規定デアリマス。第二條ハ、信房、騷擾的行為ヲ嚴罰セントスルモノデアリマス。信房ニシテ多衆聚合ニ暴動的行為ニ出ヅルハ不従順、甚シキモノデアリマシテ、信房ノ管理取締上最モ嫌忌スベキ所デアリマス。茲ヲ以テ其、既遂ヲ相當ノ刑ヲ以テ罰スルト共ニ、其、豫備陰謀ヲモ罰シ、未然萌發、間之ヲ禁抑スルノ要アリト存スル次第デアリマス。第三條及び第四條ハ、信房ヲ監督シ看守シ又ハ護送スル者、以下之ヲ信房管理者ト略稱致シマス。ニ付スル殺傷暴行脅迫、行為ヲ嚴重取締ラントスルモノデアリマス。信房管理者ニ付シ斯種ノ不正、行為ヲナシ、就中、當與ミテ敢行スルガ如キハ之ヲ嚴重ニ處断シテ、信房一般ヲ警告戒スルノ要アルトハ言フ俟タナイ所デアリマス。

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而して侮辱管理若殺害ニ付テハ其、豫備通謀ヲモ罰スルコトニ
致サントスルモノデアリマス。尚ホ暴行ニ関シハ現行法ニ於テ規定セ
ラレテアリマスガ、本案ニ於キマシテハ其、刑、範圍ヲ擴大シ、具體的
事案ニ付キ寛嚴宜キヲ制シ得ル如クナサントスルモノデアリマス
第五條ハ侮辱管理若、命令ニ反抗シ、又ハ之ニ服従セザルモ、
ヲ取締ラントスルモノデアリマシテ、現行規定、整備デアリマス
其、趣旨、ホ三條及ビホ四條ニ付キ述ベタル所ト同様デアリマス
第六條ハ侮辱管理若ニ対スル侮辱、行爲ヲ取締ラントスルモ、
デアリマス。斯カル行爲ハ被害者、名譽侵害ノミナラズ、之ニ対ス
ル反抗的心理、表現トモ解スベク、不従順、行爲トシテ取締上
勿論ニ付シ得ザル所デアリマス。從來、侮辱收容、経験ニ於キ
マシテモ、斯カル行爲ヲナス者ガアリマシテ、刑法侮辱罪、規定ヲ
以テシテハ不備タルコトヲ感じ居タデアリマス。第七條ハ堂與
逃走ヲ罰セントスルモノデアリマシテ、現行規定、整備ニ止マリマス
第八條ハ多數聚衆暴行、脅迫、侮辱管理若殺害、傷害、
暴行、脅迫及ビ堂與逃走、各罪、未遂ヲ罰スルコトニ致
サントスルモノデアリマス。ホ九條及ビホ十條ハ宣誓違背、罰
則デアリマシテ、現行規定、整備ニ及ビテモデアリマス。而
シテ各種、宣誓、中、所謂宣誓解放ハ其、性質、嚴格ナ
ルモノデアリマスルカラ、特別ニ之ヲ規定シ、其、刑モ亦重カラ
シメ、逃走セザル宣誓ハ之ニ亞グモノトシ更ニ其、他、宣誓

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ニ付テ、ソレノ其ノ程々ニ應ジ其ノ違背ヲ罰スル規定ヲ整備
セトスルモノデアリマス。第十一條ハ、違憲ノ行為ヲ罰セトスルモノ
デアリマス。即チ不従順ノ行為ヲ目的トシテ憲ヲ犯スル如キハ
明確的抵抗ヲ犯デアリマス。暴動的暴行ノ爲、過剰トナリ
取締上忌諱ニ付スベカサルモノデアリマス。不従行動、未然防止
ノ紀律保持トシ上ニ極大ニ必要ナル規定ニ付ナルモノデアリマス。
第十二條ハ、俘虜ガ逃走シテ自衛軍ニ達シ、又ハ帝國軍ヲ占領
シタル地域ヲ離レテ後、更ニ再ビ俘虜トナリタルトキ、前ニ犯シタ
ル憲法與逃走ノ罰則ハ之ヲ適用セサル旨ノ規定デアリマス。現行
規定ノ整理ニ止マリマス。尚テ現行法ニハ、第七條ニ於テ俘虜、
犯罪審判ニ関スル規定ヲ設ケテアリマスガ、是ハ現行法制定
後制定セシマシ陸軍軍法會議法及ヒ海軍軍法會議法
ニ同趣旨ノ規定ガ設ケニシ、必要ナキニ至リマシタリテ削除セ
タルデアリマス。

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「ワシントン」文書局 第 證 明 書
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東京ニ於テ署名

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余・Richard H. Larsh、余ガ聯合國最高指揮官總司令部ニ關係アルモノナルコト、竝ニ上記題名ノ文書ハ余ガ公務上、日本政府ノ上記署名官吏ヨリ入手シタルモノナルコトヲ茲ニ證明ス

千九百四十六年ノ昭和二十一年ノ十月二日

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